IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 7006 of 2007()

CMP.2780/2007 of J.M.F.C., MANNARKAD
CRIME NO.562/07 OF MANNARKAD POLICE STATION

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: PETITIONER/ACCUSED 1 AND 2

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1. SURESH BABU, S/O. NAVUNNI, AGED 26 YRS, THADIKKAMARE VEEDU, KAITHACHIRA POST, THATHAMANGALAM, MANNARKKAD, PALAKKAD.

2. MUHAMMED SADHIK @ SADHIK, AGED 26 YEARS, POOLAMANVEEDU, PANDIKKAD COLONY, NEAR M.E.S. COLLEGE, KUNTHIPUZHA, PALAKKAD.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT AND STATE

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1. STATION HOUSE OFFICER, MANNARKKAD POLICE STATION, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7006 OF 2007

Dated this the 19th day of November, 2007

ORDER

Application for regular bail. The petitioners are accused 1 and 2. Altogether, there are 5 accused persons. They face allegations under Sec.302 of the IPC. The petitioners were arrested on 25/8/07. The incident had taken place on 16/8/07. The miscreants had allegedly trespassed into the house of the de facto complainant. He was killed by strangulation with a pillow. An earlier application for regular bail filed by the petitioner was dismissed by this Court as per the order dated 1/11/07 in B.A.No.6576/07. This order must be read in continuation of the said order. I have adverted to the facts in detail in the said order. I am hence not adverting to the facts in any greater detail in this order.

2. The learned Public Prosecutor opposes the application.

Investigation is not complete. It is unlikely that the investigation will be complete within 90 days of arrest i.e., 25/8/07. In these circumstances, the petitioners may be directed to seek bail by default before the learned Magistrate. At this stage, there is no merit in the prayer for release of the petitioners on bail, submits the learned Public Prosecutor. One of the accused remains to be arrested even now, submits the learned Public Prosecutor.

3. I am satisfied that there is merit in the objection by the learned Public Prosecutor. However, the petitioner shall be at liberty to seek regular bail by default under the proviso to Sec.167(2) of the Cr.P.C. when the period of 90 days elapses from the date of the first remand. Thereafter if necessary petitioners can approach this Court.

4. With the above observations, this bail application is dismissed.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge